

**MINUTES**  
**PINE COUNTY BOARD OF ADJUSTMENT**  
**April 6, 2016 4:30 p.m.**  
**Pine County Courthouse Board Room**  
**635 Northridge Dr, Pine City**

**Members Present:** David Koland, Tom Mestemacher, Richard Stepan, Gary Valvoda,  
**Members Absent:** none  
**Staff Present:** Kelly Schroeder, Land Services Director; Caleb Anderson, Land and Resources Manager; Reese Frederickson, County Attorney  
**Others Present:** Edward Storebo, Melinda Storebo, David Cobb, Mark Ertz

**Call To Order:** 4:30 p.m. Chairman Mestemacher asked all to rise and recite the Pledge of Allegiance to the Flag.

**Approval of Minutes:**  
Valvoda/Stepan 4-0 to approve the Minutes of March 2, 2016 as presented.

**Hearings:**

**Edward and Melinda Storebo (owners) have applied for and are requesting the following variance on their property at 15504 Canyon Way, Pine City:**

The Pine County Floodplain Management Ordinance Section 11.1 states that "No such use (nonconforming) shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity." The applicant is requesting a variance to add a 366 square foot addition to a nonconforming structure. The addition is 4' below the regulatory flood protection elevation.

The Pine County Shoreland Management Ordinance Section 6.21 states that for homestead real estate a nonconformity may be continued, "through repair, replacement, restoration, maintenance, or improvement, but not including expansion." The applicant is requesting a variance of 366 square feet to expand a nonconforming structure. The structure is considered nonconforming because it is 16.5' from the OHWL, while the required setback is 150'.

Staff **Caleb Anderson** gave an overview of the request. **Anderson** shared that the addition was already built to replace the deck without a permit and that the variance would be retroactive. The homeowner did not know they needed a permit. **Anderson** shared that the letter received from the DNR addresses Mr. Storebo's deck, however, subsequent research and conversation with the DNR has established that the deck is considered nonconforming as it was built before the ordinance. **Anderson** also commented that though the FEMA map shows that the corner of the addition may be in the floodway, it has been established that it is in fact not.

**Edward and Melinda Storebo** made a statement in support of their variance request. **Storebo** explained that when he first purchased the property in 1996 it was followed by a sequence of letters from his mortgage company notifying him that he was in and out of the floodplain. His

concern is that if he removes the porch that he may be removed from the floodplain by FEMA again. Storebo explained that a deck used to be in place of a portion of the addition in question. Also, the new porch is used to support his nonconforming deck. The porch also protects a crawl space opening that was otherwise exposed to the elements. Storebo explained that the previous owner told him that the most water inundation he had experienced was 1"-2" of water in the yard and it cleared fairly quickly. The Storebo's stated that the sturdy construction of the addition would help protect the rest of the house in the event of a flood.

**Chairman Mestemacher** opened the public hearing at 4:45 p.m.

Mark Ertz, neighbor of the applicant, stated that he supported granting the variance.

**Chairman Mestemacher** closed the public hearing at 4:46 p.m.

**County Attorney Reese Frederickson** stated that the Floodplain Management Ordinance is the most restrictive ordinance to consider in this variance. Frederickson noted that the DNR letter spells out many of his legal concerns. Also, the added porch added to the nonconformity because it is at a lower elevation than the pre-existing house. Frederickson noted that the Storebo's application noted practical difficulties such as the protection of the crawl space, however, this is insufficient because the homeowner would have had other options to protect their crawl space. Therefore the practical difficult standard and exceptional hardship standards are not met. Another consideration is the concept that the variance will result in added public expense. Frederickson referred to the DNR letter stating that if variances such as this are granted it could result in Pine County floodplain homes getting suspended from the National Flood Insurance Program, which is required for federally backed loans. **Frederickson** stated that legally there is not much that can be done to approve it.

Staff **Caleb Anderson** read the letter of comment submitted by **Minnesota DNR's State Floodplain Manager, Ceil Strauss**. The letter recommends denial of the variance.

**Discussion/Decision on Variance Request:**

**Storebo** explained that he is interested in elevating the entire house to the RFPE.

**Gary Valvoda** noted that the Shoreland Management Ordinance allows for lateral additions to nonconforming structures. However **Kelly Schroeder** shared that this provision was not compliant with state statute so is not in the new Shoreland Ordinance effective 4/1/16.

**David Koland** stated that by passing legislation restricting development in floodplains, the government has created the hardship for the applicant.

**David Koland** made a motion to grant the variance. **Tom Mestemacher** asked if the Board can go through the variance criteria prior to making a decision. **Koland** retracted his motion.

**Mestemacher** noted that the variance would not allow a use that is prohibited in the zoning

district that the property lies in.

**Mestemacher** noted that in some ways the variance is in harmony with the ordinance but in other ways it is not.

**Valvoda** noted that the variance does not alter the essential character of the locality.

**Mestemacher** commented that the practical difficulty is created by the landowner. **Koland** noted that the ordinance created the circumstances presenting a practical difficulty. **Koland** established that the group is in agreement that the practical difficulty standard is met because the lot is too low and the owner did not create the circumstance.

**Mestemacher, Koland, and Valvoda** agreed that the applicant's proposed use is reasonable.

**Valvoda** commented that the variance would permit a lower degree of flood protection than the RFPE.

**Mestemacher** stated that the applicant has demonstrated good and sufficient cause for variance.

**Mestemacher, Koland and Valvoda** noted that denial of the variance would result in exceptional financial hardship to the applicant.

**Mestemacher** commented that the variance will not result in increased flood heights. **Valvoda** commented that it would not add threats to public safety. **Valvoda** noted that it could result in extraordinary public expense, such as increased flood insurance premiums as noted by DNR. The group agreed the variance would not create nuisances. **Valvoda** noted the variance would not cause fraud or victimization of the public. **Valvoda and Mestemacher** commented that the variance would conflict with local ordinances.

**Valvoda** noted that the variance is the minimum necessary. The applicant is not asking for any more variance than the addition that was already constructed. **Koland** agreed that the applicant is asking for the minimum variance necessary. **Mestemacher** questioned whether removing the porch and returning to a deck, perhaps with a roof, would be a better option.

**Mestemacher** stated that he has known the homeowners for a long time so he will abstain from voting. **Valvoda** also abstained from voting because he felt he knew the applicant too well.

**Storebo** requested to have the decision tabled so that he could work with contractors on elevating the house. **Schroeder** clarified that the County has 60 days to deny a variance and **Storebo** would have to agree to waiving the 60 days. **Storebo** agreed to waive the 60 days.

**Motion made by Mestemacher. Seconded by Stepan. 4-0 to table the variance request.**

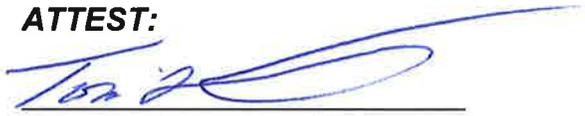
**Old Business:**

none

**ADJOURN**

Mestemacher/Stepan 4-0 to adjourn the meeting at 5:42P.M.

**ATTEST:**



Tom Mestemacher, Chairman



David Koland, Secretary